

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

VLSI TECHNOLOGY LLC,

Appellant,

v.

PATENT QUALITY ASSURANCE LLC,

Cross-Appellant,

INTEL CORPORATION,

Appellee,

KATHERINE K. VIDAL, Under Secretary
of Commerce for Intellectual Property
and Director of the United States Patent
and Trademark Office,

Intervenor.

Nos. 23-2298, 23-2354

**VLSI TECHNOLOGY LLC’S MOTION FOR A
60-DAY EXTENSION OF TIME TO FILE ITS PRINCIPAL BRIEF**

Pursuant to Federal Rule of Appellate Procedure 26(b) and this Court’s Rule 26(b), appellant/cross-appellee VLSI Technology LLC (“VLSI”) respectfully moves for a 60-day extension of time to file its principal brief in the above-captioned cases. VLSI’s principal brief is currently due on December 15, 2023. If this motion is granted, the brief will be due on February 13, 2024. VLSI has not previously sought an extension for this brief. VLSI’s counsel has informed counsel for appellee/cross-appellant Patent Quality Assurance LLC (“PQA”), counsel for appellee Intel

Corporation (“Intel”), and counsel for intervenor Katherine K. Vidal, Director of the United States Patent and Trademark Office (the “Director”), of this extension request. The Director indicated she does not oppose the requested 60-day extension. Intel indicated that it would consent to a 30-day extension but will not agree to a longer extension; Intel intends to file a response. PQA indicated that it would not oppose a request for a 30-day extension; PQA will not file a response.

On November 7, 2023, VLSI filed a motion to stay these appeals and for a limited remand to the PTO for resolution of outstanding sanctions issues in the underlying inter partes review. ECF #23 (“Remand Motion”). No party opposed a stay or remand. *Id.* at 1-2. VLSI also requested that the Court stay the briefing schedule pending consideration of the Remand Motion, as the Court had ordered *sua sponte* in a related case where VLSI likewise sought a stay and limited remand for resolution of outstanding sanctions issues. *Id.* at 3; *see VLSI Tech. LLC v. OpenSky Indus., LLC*, Nos. 23-2158, 23-2159, Dkt. 23 (Fed. Cir. Sept. 21, 2023). The unopposed Remand Motion is ripe for resolution and, as of the filing of this extension motion, remains pending.

The requested extension will afford this Court sufficient time to consider and rule on the pending Remand Motion before VLSI files its principal brief. That, in turn, will facilitate orderly resolution of these appeals. As explained in the Remand Motion, issues arising from the IPR underlying this appeal—potentially dispositive

ones—have not yet been resolved by the Director. The Remand Motion seeks a stay of briefing and a limited remand to ensure all issues arising from the IPR can be decided together. Granting this extension will allow this Court to rule on the Remand Motion before briefing proceeds. That serves the interests of judicial economy as well, so briefing does not proceed before this Court has had full opportunity to determine the scope of the issues that will be before it.¹

Additionally, counsel of record has been, and will remain, heavily engaged with the press of other matters before this Court and other courts. Those matters include: oral argument in *Merck & Co., Inc. v. Bayer AG*, No. 150 (Del.), on November 1, 2023; a petition for panel rehearing in *Martinez v. ZoomInfo Technologies, Inc.*, No. 22-35305 (9th Cir.), filed on November 3, 2023; a reply brief in *Jiaxing Super Lighting Electric Appliance, Co. v. CH Lighting Technology Co., Ltd.*, No. 23-1715 (Fed. Cir.), filed on November 16, 2023; an intervenor’s brief in *PJM Power Providers Group, et al. v. FERC*, Nos. 23-1778, 23-1790, 23-1808, 23-1984, 23-2544, 23-2559, 23-2560, 23-2612 (3d Cir.), filed on November 20, 2023; a supplemental brief in response to a court order in *Martinez v. ZoomInfo Technologies, Inc.*, No. 22-35305 (9th Cir.), due on December 4, 2023; a petition for a writ of certiorari to the Second Circuit in *Kirschner v. JP Morgan Chase Bank*,

¹ If this Court grants the Remand Motion or otherwise stays the briefing schedule before ruling on this extension motion, this extension motion would be effectively moot and VLSI would seek to withdraw it.

N.A., No. 21-2726 (2d Cir.), due in the U.S. Supreme Court on December 19, 2023; a response and reply brief in *Lambeth Magnetic Structures, LLC v. Seagate Technology (US) Holdings, Inc.*, Nos. 23-1335, 23-1346 (Fed. Cir.), due on January 4, 2024; a principal and response brief in *Global Tubing LLC v. Tenaris Coiled Tubes LLC*, Nos. 23-1882, 23-1883 (Fed. Cir.), due on January 5, 2024; an opening brief in *Versata Software, Inc. v. Ford Motor Company*, No. 24-1140 (Fed. Cir.), currently due on January 12, 2024; an opening brief in *United States v. Gyetvay*, Nos. 23-13254, 23-13383 (11th Cir.), due on January 12, 2024; a response brief in *In re LTL Management LLC*, Nos. 23-2971, 23-2972 (3d Cir.), due on January 26, 2024; a response brief in *Duke University v. Sandoz, Inc.*, No. 24-1078 (Fed. Cir.), due on February 5, 2024; and an opening brief in *Finesse Wireless LLC v. AT&T Mobility LLC*, No. 24-1039 (Fed. Cir.), due on February 12, 2024.

Accordingly, VLSI respectfully requests a 60-day extension of time to file its principal brief, to and including February 13, 2024.

December 4, 2023

Respectfully submitted,

/s/ Jeffrey A. Lamken

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Counsel for VLSI Technology LLC

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**DECLARATION OF JEFFREY A. LAMKEN
IN SUPPORT OF VLSI TECHNOLOGY LLC’S MOTION FOR A
60-DAY EXTENSION OF TIME TO FILE ITS PRINCIPAL BRIEF**

I, Jeffrey A. Lamken, hereby declare:

1. I am a partner in the law firm MoloLamken LLP and counsel for appellant/cross-appellee VLSI Technology LLC (“VLSI”). I am over the age of 18 and have personal knowledge of the matters set forth herein.

2. I submit this declaration in support of VLSI Technology LLC’S Motion for a 60-Day Extension of Time To File Its Principal Brief.

3. Counsel for VLSI informed counsel for appellee/cross-appellant Patent Quality Assurance LLC (“PQA”), counsel for appellee Intel Corporation (“Intel”), and counsel for intervenor Katherine K. Vidal, Director of the United States Patent and Trademark Office (the “Director”), of this extension request.

4. The Director indicated she does not oppose the requested 60-day extension. Intel indicated that it would consent to a 30-day extension but will not agree to a longer extension; Intel intends to file a response. PQA indicated that it would not oppose a request for a 30-day extension; PQA will not file a response.

5. VLSI’s principal brief is currently due on December 15, 2023. If this motion is granted, the brief will be due on February 13, 2024. VLSI has not previously sought an extension for this brief.

6. On November 7, 2023, VLSI filed a motion to stay these appeals and for a limited remand to the PTO for resolution of outstanding sanctions issues in the underlying inter partes review. ECF #23 (“Remand Motion”). No party opposed a stay or remand. VLSI also requested that the Court stay the briefing schedule pending consideration of the Remand Motion. The unopposed Remand Motion is ripe for resolution and, as of the filing of this extension motion, remains pending. The requested extension will afford this Court sufficient time to consider and rule on the pending Remand Motion before VLSI files its principal brief.

7. Additionally, counsel of record has been, and will remain, heavily engaged with the press of other matters before this Court and other courts. Those matters include: oral argument in *Merck & Co., Inc. v. Bayer AG*, No. 150 (Del.), on November 1, 2023; a petition for panel rehearing in *Martinez v. ZoomInfo Technologies, Inc.*, No. 22-35305 (9th Cir.), filed on November 3, 2023; a reply brief in *Jiaxing Super Lighting Electric Appliance, Co. v. CH Lighting Technology Co., Ltd.*, No. 23-1715 (Fed. Cir.), filed on November 16, 2023; an intervenor's brief in *PJM Power Providers Group, et al. v. FERC*, Nos. 23-1778, 23-1790, 23-1808, 23-1984, 23-2544, 23-2559, 23-2560, 23-2612 (3d Cir.), filed on November 20, 2023; a supplemental brief in response to a court order in *Martinez v. ZoomInfo Technologies, Inc.*, No. 22-35305 (9th Cir.), due on December 4, 2023; a petition for a writ of certiorari to the Second Circuit in *Kirschner v. JP Morgan Chase Bank, N.A.*, No. 21-2726 (2d Cir.), due in the U.S. Supreme Court on December 19, 2023; a response and reply brief in *Lambeth Magnetic Structures, LLC v. Seagate Technology (US) Holdings, Inc.*, Nos. 23-1335, 23-1346 (Fed. Cir.), due on January 4, 2024; a principal and response brief in *Global Tubing LLC v. Tenaris Coiled Tubes LLC*, Nos. 23-1882, 23-1883 (Fed. Cir.), due on January 5, 2024; an opening brief in *Versata Software, Inc. v. Ford Motor Company*, No. 24-1140 (Fed. Cir.), currently due on January 12, 2024; an opening brief in *United States v. Gyetvay*, Nos. 23-13254, 23-13383 (11th Cir.), due on January 12, 2024; a response brief in

In re LTL Management LLC, Nos. 23-2971, 23-2972 (3d Cir.), due on January 26, 2024; a response brief in *Duke University v. Sandoz, Inc.*, No. 24-1078 (Fed. Cir.), due on February 5, 2024; and an opening brief in *Finesse Wireless LLC v. AT&T Mobility LLC*, No. 24-1039 (Fed. Cir.), due on February 12, 2024.

8. A 60-day extension will give counsel the necessary time to prepare VLSI's principal brief.

* * *

I declare under penalty of perjury that the foregoing is true and correct.

Executed: December 4, 2023
Washington, D.C.

/s/ Jeffrey A. Lamken

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Counsel for VLSI Technology LLC

FORM 9. Certificate of Interest

Form 9 (p. 1)
March 2023

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF INTEREST

Case Number 2023-2298, 2023-2354

Short Case Caption VLSI Technology LLC v. Patent Quality Assurance LLC

Filing Party/Entity VLSI Technology LLC

Instructions:

1. Complete each section of the form and select none or N/A if appropriate.
2. Please enter only one item per box; attach additional pages as needed, and check the box to indicate such pages are attached.
3. In answering Sections 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance.
4. Please do not duplicate entries within Section 5.
5. Counsel must file an amended Certificate of Interest within seven days after any information on this form changes. Fed. Cir. R. 47.4(c).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: 12/04/2023

Signature: /s/ Jeffrey A. Lamken

Name: Jeffrey A. Lamken

FORM 9. Certificate of Interest

Form 9 (p. 2)
March 2023

1. Represented Entities. Fed. Cir. R. 47.4(a)(1).	2. Real Party in Interest. Fed. Cir. R. 47.4(a)(2).	3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3).
Provide the full names of all entities represented by undersigned counsel in this case.	Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities. <input checked="" type="checkbox"/> None/Not Applicable	Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities. <input type="checkbox"/> None/Not Applicable
VLSI Technology LLC		CF VLSI Holding LLC

☐ Additional pages attached

FORM 9. Certificate of Interest

Form 9 (p. 3)
March 2023

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

☐ None/Not Applicable ☐ Additional pages attached

Bridget Smith Lowenstein & Weatherwax LLP *No longer with firm	Flavio Rose Lowenstein & Weatherwax LLP *No longer with firm	Edward Hsieh Lowenstein & Weatherwax LLP *No longer with firm
Parham Hendifar Lowenstein & Weatherwax LLP	Patrick Maloney Lowenstein & Weatherwax LLP *No longer with firm	Jason C. Linger Lowenstein & Weatherwax LLP *No longer with firm

5. Related Cases. Other than the originating case(s) for this case, are there related or prior cases that meet the criteria under Fed. Cir. R. 47.5(a)?

☐ Yes (file separate notice; see below) ☐ No ☒ N/A (amicus/movant)

If yes, concurrently file a separate Notice of Related Case Information that complies with Fed. Cir. R. 47.5(b). **Please do not duplicate information.** This separate Notice must only be filed with the first Certificate of Interest or, subsequently, if information changes during the pendency of the appeal. Fed. Cir. R. 47.5(b).

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

☒ None/Not Applicable ☐ Additional pages attached

FORM 19. Certificate of Compliance with Type-Volume Limitations

Form 19
July 2020

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATIONS

Case Number: 2023-2298, 2023-2354

Short Case Caption: VLSI Technology LLC v. Patent Quality Assurance LLC

Instructions: When computing a word, line, or page count, you may exclude any items listed as exempted under Fed. R. App. P. 5(c), Fed. R. App. P. 21(d), Fed. R. App. P. 27(d)(2), Fed. R. App. P. 32(f), or Fed. Cir. R. 32(b)(2).

The foregoing filing complies with the relevant type-volume limitation of the Federal Rules of Appellate Procedure and Federal Circuit Rules because it meets one of the following:

- ☒ the filing has been prepared using a proportionally-spaced typeface and includes 1,447 words.
- ☐ the filing has been prepared using a monospaced typeface and includes _____ lines of text.
- ☐ the filing contains _____ pages / _____ words / _____ lines of text, which does not exceed the maximum authorized by this court's order (ECF No. _____).

Date: 12/04/2023

Signature: /s/ Jeffrey A. Lamken

Name: Jeffrey A. Lamken